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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,014	05/10/2001	Peter Schafer	A34196 PCT USA-A	5113

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EXAMINER

BURCH, MELODY M

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 06/14/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/853,014	SCHAFFER ET AL.
	Examiner	Art Unit
	Melody M. Burch	3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 May 2002.

2a) This action is FINAL.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-24 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on 14 May 2002 is: a) approved b) disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)                            4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .                    6) Other: \_\_\_\_\_ .

## **DETAILED ACTION**

### ***Drawings***

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 5/14/02 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of the electronic stability system and the perforated box including the added electronic stability system, the processor, the controller, the anticipation device, and the actuator.

### ***Specification***

2. The disclosure is objected to because of the following informalities: element number "8" is used to represent both "electronic stability control unit" and "brake pedal" at the bottom of pg. 7.

Appropriate correction is required.

3. The amendment filed 5/5/02 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The phrase "processor 1 which is part of a single electronic stability system 8'" as amended in paragraph [0028]. Originally, the electronic stability system was represented by numeral 8 in figures 1 and 2. In amendment B, however, Applicant changed element 8 in figures 1 and 2 from

“electronic stability system 8” to “electronic stability control system” to correspond with the language associated with element number 8 on page 7. Therefore, there existed no electronic stability system in figures 1 and 2 for the processor 1 to be a part of. As a result, Applicant included an “electronic stability system” in figure 3 and a perforated box including the added electronic stability system, the processor, the controller, the anticipation device, and the actuator. The specification does not support such modifications to figure 3. See Drawing Objection.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5 and 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by WIPO 96/13417 (using US Patent 6019439 to Drumm et al. as an English equivalent).

Re: claims 1, 4, 12, 13 and 16. Drumm et al. discloses a method for controlling a brake system of a vehicle wherein braking effect on the vehicle wheels is a function of brake pedal force exerted by the operator as disclosed in col. 2 lines 65-66, the braking effect being enhanced by an adjustable braking force booster as disclosed in col. 3 lines 5-12 comprising: detecting dynamic conditions of the vehicle as disclosed in col. 3 lines

60-65, analyzing the dynamic conditions to detect a condition of vehicle instability as disclosed in col. 3 lines 8-10 and in col. 4 lines 13-15, and increasing the force boosting effect of the braking force booster when the analysis indicates condition of the condition of vehicle instability as disclosed in col. 4 lines 15-16.

Re: claim 2. Drumm et al. disclose the limitation wherein the force boosting effect of the braking force booster is returned to an original condition where the analysis no longer indicates a condition of vehicle instability as disclosed in col. 4 lines 25-30.

Re: claims 3 and 15. Drumm et al. disclose in col. 2 lines 6-10, col. 3 lines 10-12, and in col. 4 lines 1-16 the limitation wherein the adjustable braking force booster provides a first normal braking force as a function of brake pedal pressure for normal vehicle operation and a second higher braking force as a function of brake pedal pressure when the analysis indicates a condition of vehicle instability.

Re: claim 14. Drumm et al. disclose in col. 3 lines 9-11 and in col. 3 lines 60-64 the limitation wherein the braking force has variable braking force as a function of the control signal.

Re: claims 5 and 17. Drumm et al. discloses the step of monitoring operator use of at least one vehicle control via actuation of the control valve 8 via brake pedal 6 as disclosed in col. 3 lines 5-6 to detect a condition wherein the operator may apply full braking and increasing the force boosting effect of the braking force booster when the monitoring indicates a condition wherein the operator may apply full braking as disclosed in col. 3 lines 14-15 and in col. 4 lines 13-15.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6, 7, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drumm et al. in view of Sato. Drumm et al. teach monitoring the operator's use of a pedal, as set forth above, but does not disclose the limitation of the pedal being an accelerator. Sato teaches the use of monitoring the operator's use of or more specifically the abrupt release of an accelerator pedal as disclosed in lines 1-2 of the abstract. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method of controlling the brake system of Drumm et al. to have included a step of monitoring the operator's abrupt release of the accelerator pedal, as taught by Sato, in order to provide an alternate means of determining the operator's intentions of applying brakes under unstable vehicle conditions.

8. Claims 8, 9, 20-22 <sup>are</sup> rejected under 35 U.S.C. 103(a) as being unpatentable over Drumm et al. in view of Kircher et al.

Re: claims 8, 20, and 21. Drumm et al. describe the invention substantially as set forth above, but does not specifically disclose the limitation of at least one clamping device responsive to an actuator for applying the braking force to the vehicle.

Kircher et al. teach in figure 1 the use of at least one clamping device or disc brake 1-4 responsive to an actuator M which as taught in col. 4 lines 20-23 presses the brake shoes of the disc brake from either side against a brake disc rotating on a wheel. It is maintained that such pressing action inherently overcomes free play of the clamping device or disc brake. Also, although not disclosed, it is obvious that in order for the method of controlling the braking system of Drumm et al. to function, there must be an associated well-known brake structure such as a disc brake or drum brake associated with the system. Despite the silence of the Drumm et al. reference with respect to the specific brake structure associated with the system, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the brake structure associated with the brake system of Drumm et al., to have included a clamping device or disc brake responsive to an actuator, as taught by Kircher et al., in order to provide a means of realizing the braking effect of the brake system.

Re: claim 9 and 22. Drumm et al., as modified, teaches the step of monitoring operator use of at least one vehicle control via actuation of the control valve 8 via brake pedal 6 as disclosed in col. 3 lines 5-6 to detect a condition wherein the operator may apply full braking and increasing the force boosting effect of the braking force booster when the monitoring indicates a condition wherein the operator may apply full braking as disclosed in col. 3 lines 14-15 and in col. 4 lines 13-15.

9. Claims 10, 11, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drumm et al. in view of Kircher et al., and further in view of Sato. Drumm et al., as modified, teaches monitoring the operator's use of a pedal, as set forth

above, but does not disclose the limitation of the pedal being an accelerator. Sato teaches the use of monitoring the operator's use of or more specifically the abrupt release of an accelerator pedal as disclosed in lines 1-2 of the abstract. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method of controlling the brake system of Drumm et al. to have included a step of monitoring the operator's abrupt release of the accelerator pedal, as taught by Sato, in order to provide an alternate means of determining the operator's intentions of applying brakes under unstable vehicle conditions.

***Response to Arguments***

10. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 5181769 to Schiel et al., 5031970 to Vogel, and Japanese Patent JP-9125999 teach similar brake systems with brake booster.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers

for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

mmB 6/6/02  
mmB  
June 6, 2002

  
JACK LAVINDER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600  
